REMARKS

This is a full and timely response to the Office Action mailed December 8, 2003 (Paper No. 9), submitted concurrently with a petition for extension of time to within the first extended month. Applicant thanks the examiner for indicating that claim 4, and by default claim 10, contain allowable subject matter. By this Amendment, the elements of claim 4 have been incorporated in to claim 2, the elements of claim 10 incorporated into claim 7, and claims 4 and 10 were canceled without prejudice or disclaimer. Claims 2, 3, 5, 7, 9, 11-13 and 21 have been variously amended to conform to U.S. practice and for idiomatic English. Reconsideration and withdrawal of all objections and rejections is respectfully requested.

Restriction Requirement

Applicant continues to traverse the restriction requirement as improper under the unity of invention standards. Applicant notes that the Examiner's Response to the traversal of the restriction requirement is incomplete. The examiner is conducting piecemeal analysis instead of looking at the claims as a whole.

Still further, as the examiner has not addressed all of Applicant's arguments, the examiner de facto acknowledges the impropriety of the restriction, and the restriction must be withdrawn. See M.P.E.P. §707.07(f).

Still further, at the very least, as non-elected Group IV is restricted for a two container device, and elected Group II is restricted for a two vessel method, there is de facto unity of invention, and the restriction should be withdrawn. Applicant notes that the U.S. rejoinder rules of method and apparatus do not apply, as Applicant has elected the method.

Still further, regarding that the examiner cannot show lack of a contribution over the prior art until a rejection is stated, the Office Action states "that the Office policy provides for such rationale in making decisions on unity of inventions." See Office Action at page 3, first paragraph. However, no citation to such alleged office policy is given, and this statement contradicts the unity of invention guidelines. See MPEP § 1800. Accordingly, this restriction remains improper as an incorrect standard has been applied. Withdrawal of the entire restriction is requested.

Still further, this restriction was made under 35 USC 121. See Paper No. 7, page 2, paragraph 1. Applicant points out to the examiner that this application is a national stage

application filed under 35 USC 371. MPEP § 1893.03(d) points out that with respect to national stage applications filed under 35 USC 371, restriction practice under 35 USC 121 is inapplicable. Rather, Unity of Invention practice under PCT Rule 13 and 37 CFR 1.475 applies. Unity of Invention is discussed in detail in Chapter 1800 of the MPEP. While the examiner purports to use PCT Rule 13, applicant asserts that this has been misapplied, and regardless, is stated to have been erroneously performed under the color of 35 USC 121 and 372, in contradiction of the 35 USC 371, 37 CFR 1.475 and MPEP §1893.03(d).

At a minimum, withdrawal of the restriction is respectfully requested at least as it pertains to Groups II and IV, as Unity of Invention has already been acknowledged by the examiner in Paper No. 7, as well as being a related as a product and a process.

Claim Objections

Claims 2 and 3 were objected to for not clearly reciting method steps in accordance with U.S. practice. Applicant respectfully traverses this objection. However, in order to expedite prosecution, claims 2, 3 and 5 have been variously amended to conform to U.S. practice and for idiomatic English. Withdrawal of this objection is respectfully requested.

Rejections Under 35 U.S.C. §112, second paragraph

Claim 3 was rejected under 35 U.S.C. §112, second paragraph for indefiniteness. Applicant respectfully traverses this rejection. However, in order to expedite prosecution, claim 3 was variously amended. Withdrawal of this rejection is respectfully requested.

Rejections Under 35 U.S.C. §103

Claims 2, 3 and 5 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,316,591 to Chao et al and as evidenced by U.S. Patent No. 5,778,713 to Butler et al. Applicant respectfully traverses this rejection.

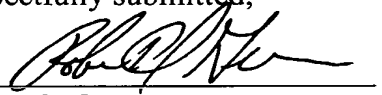
However, in order to expedite prosecution, claim 2 was amended to incorporate the patentable elements of claim 4. Withdrawal of this rejection is requested.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. NAG-112 from which the undersigned is authorized to draw.

Dated: April 2, 2004

Respectfully submitted,

By 

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